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OFFICE OF PETITIONS

In re Application of	:	
ADRIAN et al.	:	
Application No. 10/612,635	:	DECISION ON PETITION
Filed: 07/02/2003	:	
Attorney Docket No. ASSEMBLY FOR	:	
SEALING AND CENTERING IN A TWO-	:	
CYLINDER DASHPOT OR TWO-	:	
CYLINDER TELESOPING LEG	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT," filed December 20, 2007.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed February 6, 2006, which set an extendable period of one month or thirty days, whichever was longer, to reply. A Notice of Abandonment was mailed on May 2, 2007.

The practitioner asserted that he did not receive the Notice of Non-Compliant Amendment. The practitioner indicated that the practitioner's offices were searched extensively, but that Notice of February 6, 2006, was not found. Accordingly, petitioners requested that the Office withdraw the holding of abandonment, re-mail the Notice of Non-Compliant Amendment, and re-start the period for reply.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the petition under 37 CFR 1.181 is **granted** and the holding of abandonment is hereby withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3683 for re-mailing of the Notice of Non-Compliant Amendment of February 6, 2006. The period for reply will run from the date of the re-mailing of the Notice.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

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